

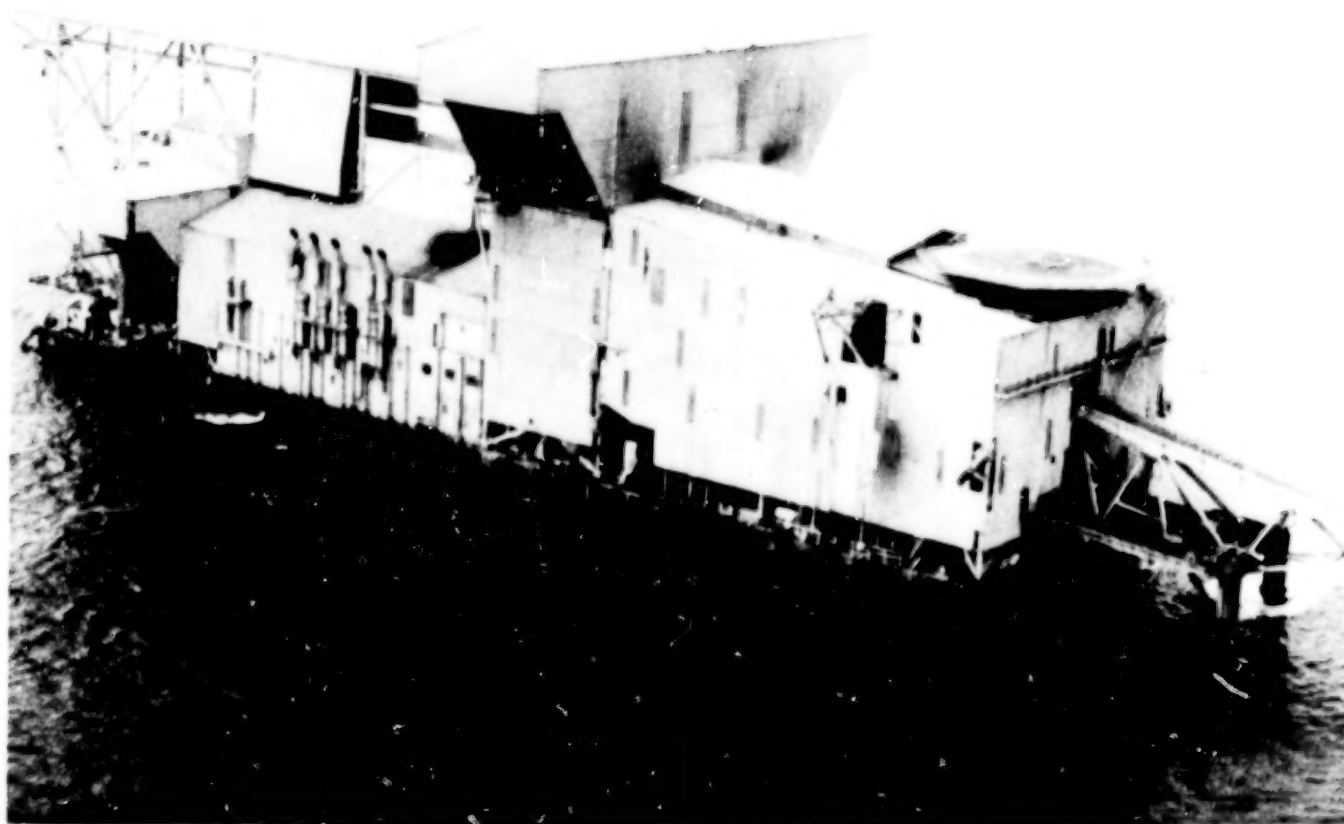
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OCS Report  
MMS 89-0017

# Coastal States Marine Mining Laws

Summary Report  
April 1989



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**MMS**

U.S. Department of the Interior  
Minerals Management Service  
Office of Strategic & International Minerals

**COMPLETED**

# **Coastal States Marine Mining Laws**

OCS Report  
MMS 89-0017

**Summary Report  
April 1989**

By Anthony C. Giordano

On the cover

View of the BIMA mining vessel located in State waters offshore Nome, Alaska. At present it is the world's largest active bucket line offshore mining vessel. The project operator is Western Gold Exploration and Mining Co., Limited Partnership (West Gold). Photo courtesy of the Bureau of Mines.

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## Introduction

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For reference and analytical purposes, the Minerals Management Service has summarized the diverse set of coastal State statutes and regulations, as well as activities, pertinent to the exploration, leasing, and development of marine minerals. Most of the 23 coastal States have statutes and/or regulations that are applicable to or expressly written for offshore areas under State jurisdiction. Describing typical mining laws is difficult since they differ significantly from State to State.

This summary is organized to highlight the key points regarding offshore exploration and mining statutes and regulations of each coastal State. The primary agency responsible for the administration of mineral resources in each State is listed first, followed by other State agencies involved in the regulation review and approval process. Statutes and regulations that apply to each State are then summarized. Past and current activities and projects undertaken in State waters are briefly discussed, followed by a brief section on Federal Outer Continental Shelf (OCS) activities, where applicable.

This summary report is intended to be used only as a quick reference for comparing marine mining law requirements. The statutes and regulations cited are subject to change. The responsible agency(s) listed should be contacted if the reader requires further information. (Key words are italicized for easy reference.)



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Responsible Agency(s)

Department of Conservation and Natural Resources and Division of State Lands

Regulations

Alabama Code section 9-15-1 and 9-17-1 (et seq.) (1975)

Exploration

Not specified

Mining

Leasing is conducted by a *competitive* sealed bidding system only. The *Invitations for Bids* are published. A tract size of no more than 5,200 acres can be leased.

Bids are opened publicly and awarded to the highest bidder.

The Commissioner of Conservation and Natural Resources has the option of accepting or rejecting the bid within 5 days.

Bids must be made in the public interest.

The lessee may be authorized to *pool* or *unitize* the lease.

The *terms* of the lease, delay rentals, royalties, or any other compensation are determined by the Commissioner.

Activity

Oyster shell dredging occurred in coastal waters from 1960 to 1980.

OCS Activity

An economic reconnaissance study of OCS and State water mineral resources was completed in 1988.



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Responsible Agency(s)

Department of Natural Resources, Division of Mining,  
Department of Fish and Game, and local coastal District  
Boards

Statutes

Alaska Statutes 38.05.185 - 38.05.275 (1984)

Regulations

Alaska Administrative Code title 11AAC86.100-86.815 (1985)

Exploration

A *permit* is issued to the first qualified bidder.

The *area* permitted can be no larger than 2,560 acres.

The *term* for a permit issued is 10 years.

The *rental* is set at \$3 per acre payable on the second anniversary of the permit for the first 2-year period, \$3 per acre each successive year, and is due annually.

A person can hold up to an aggregate of 300,000 acres.

Mining

All or part of the explored area can be converted to a mining lease noncompetitively to the holder of a prospecting permit.

Known mineral lands are offered by a *competitive bid/cash bonus* system.

The annual rent is \$3 per acre with *credit* for expenditures benefitting property.

The *term* for a lease issued is for a 20-year period and is renewable.

Reasonable adjustments of the rental rate at the end of each 10-year period are permissible, based upon changed conditions in production costs and market fluctuations.

A lessee can request a suspension of operation and production to promote development of the lease, or if the lease cannot be successfully operated under its terms, acreage rental may be suspended.

A *good faith and diligence clause* is issued to extend a lease because of depressed market conditions or other situations beyond the reasonable control of the lease.

Suspension or extension of a lease is not to exceed 2 years.

Mining permits are issued by the Department of Natural Resources. Under the State's Coastal Management Program, the Department of Fish and Game and local coastal District Boards concur with the decision to issue permits.

#### Activity

A gold mining operation currently is being conducted near Nome. The possibility of offshore platinum dredging in Good News Bay is being considered.

#### OCS Activity

A Norton Sound lease sale is scheduled for early 1990 for marine minerals in the Federal OCS.



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**Responsible Agency(s)**

State Lands Commission

**Statutes**

California Public Resource Code subsections 6371, 6890 to 6900 and California Environmental Quality Act subsection 2100 (et seq.) (1985)

**Regulations**

California Administrative Code title 2, subsections 2200 to 2205

**Exploration**

The Commission may issue a *prospecting permit* to a qualified applicant to explore for minerals other than oil and gas or geothermal resources if the State lands sought are not known to contain commercially valuable deposits at the time the permit is issued.

An applicant must provide a detailed statement about the minerals expected to be located within the proposed permit area and the prospecting methods to be used.

A permit fee of not less than \$1 per acre or fraction thereof is required for each acre described in the application.

The *term* is for 2 years and is extendable for 1 additional year, upon approval by the Commission.

An *exclusive right* to prospect is granted under the permit.

**Mining**

The holder of a prospecting permit is entitled to a lease after establishing, to the satisfaction of the Commission, that commercially valuable deposits of minerals have been discovered within the permit area and that the requirements of the California Environmental Quality Act have been fulfilled. The Commission may divide the lands into the size and number of parcels that the Commission determines will not

substantially impair the public right to navigation and fishing or interfere with the trust upon which the lands are held.

Lands known to contain commercially valuable deposits of minerals before the prospecting permit is issued may only be leased by the State upon a *rental* and *royalty* basis, pursuant to *competitive public bidding*, to the highest responsible bidder. Or such lands may be leased by a *negotiated lease* or other agreement if the Commission determines the lands unsuitable for competitive bidding.

The minimum *annual rent* is \$1 per acre.

The *term* of the lease is not to exceed 20 years with the *preferential right* of renewal for successive periods not to exceed 10-year terms.

A *public hearing* is required at least once on any draft environmental impact report prepared for the proposed lease.

#### Activity

A few prospecting permits have been issued, but no discoveries have been reported. Several sand and gravel operations are ongoing.



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Responsible Agency(s)

Department of Environmental Protection

Statutes

Connecticut General Statutes sections 22a-383 to 22a-390  
(1987)

Exploration

Not specified

Mining

A *permit* is required for removing material from lands below the mean high-water mark of the tidal or coastal waters of the State.

A *payment* must be made to the State if material is removed for commercial purposes.

A *hearing* on a permit application is required unless an environmental impact is determined not to be significant.

Procedures are specified for designating and laying out navigation channels.

A *bond* is required for damage.

Penalties are specified for noncompliance with permit requirements.

Special areas are to be avoided, such as shipping routes, fishing grounds, and inhospitable tidal current velocity zones.

Criteria for considering permits include preventing erosion, protecting habitats, improving navigation, and protecting riparian rights.

Activity

A report was published in 1985 on "Non-Energy Resources, Connecticut and Rhode Island Coastal Waters." There is no current marine mining activity.



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**Responsible Agency(s)**

Department of Natural Resources and Environmental Control

**Regulations**

Delaware Code Annotated title 7, chapter 61, subchapter 1,  
Minerals in Submerged Lands (1983)

**Exploration**

A nonexclusive *permit* is required.

Rules and regulations will be determined if necessary to protect the fish, game, wildlife, and natural resources of the State.

There is no *preferential right* to lease.

The *term* of a permit is for 2 years and is renewable.

**Mining**

A *public hearing* is required to determine whether an *Invitation to Bid* would be in the public interest.

A *competitive bid/cash bonus* system is used.

The maximum *area* in any single lease to any person is 6 square miles or 3,840 acres.

A *bond* is required for performance and compliance to lease terms.

The lease grants the exclusive right to drill for and produce all oil, gas, sulfur, and other mineral deposits in the leased lands.

The *term* is for 10 years and for as long as oil, gas, sulfur, and other minerals are produced in paying quantities or as long as certain diligence requirements are met.

The *royalty* is not less than 12 1/2 percent of gross production, or it can be paid *in-kind*.

The permittee or lessee may be required to restore that portion of the premises that is visible at extreme low tide.

Pollution and contamination are prohibited.

A rental is due and payable in advance annually. The rental is not less than \$0.25 per acre of land subject to the lease on the rental date.

After production, rent is deducted from any royalty due under the terms of a lease during the year for which rent has been paid.

Production must begin within 3 years of the discovery of a paying quantity of minerals.

The State may allow reasonable, nonconflicting uses for the lease area.

A permit or lease can be *assigned* with prior written consent.

The Secretary of Natural Resources and Environmental Control may promulgate reasonable rules, regulations, and orders necessary to regulate activities on submerged lands.

#### Activity

There are no current marine mineral activities offshore. Delaware may replace this regulation in the next year with one that specifically restricts the State to oil- and gas-related activities.



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**Responsible Agency(s)**

Department of Natural Resources, State Lands Division and Bureau of Geology

**Statutes**

Florida Statutes, Public Lands and Property title 18, chapters 253.001 to 253.45, Energy Resources chapter 377 Part I (1987)

**Regulations**

Florida Administrative Code Sovereignty Submerged Lands Management chapters 18-21

**Exploration**

A nonexclusive use agreement and oil and gas exploration *permit* is required.

The *permit* is for 1 year and is renewable for a second year.

A *bond* or other form of security is required.

**Mining**

Coastal Management Policy Bill HB-148 (pending legislation) directs the State to develop current policy to clearly provide guidelines for regulating marine mining.

A *lease* is required for exploration and development for phosphate, earth or clay, sand, gravel, shell, mineral, metal, timber, or water, or any other similar substance.

No sale or lease is allowed on hard-surfaced beaches that are used for bathing or driving and on contiguous areas out to a mean low-water depth of 3 feet and landward to the nearest paved public road.

A *public hearing* is required.

A *competitive bid/cash bonus* sealed bidding system is used for obtaining a mining lease.

The Governor and Cabinet as the Board of Trustees determines,

in advance, the amount of *royalty*, which is never less than  $\frac{1}{8}$  in-kind or in-value. The Board also determines a definite *rental rate*, which increases annually after the first 2 years upon lands not developed in good faith to secure production in paying quantities.

The Board may, at its discretion, incorporate within the terms of any lease provisions for *unitizing*.

The Board specifies in each lease, in clear and precise terms, the particular minerals for which the lessee is permitted to drill or mine and the manner in which the minerals can be extracted.

The submerged title lands are managed primarily for maintenance of natural conditions and propagation of fish, wildlife, and public recreation. Private use of submerged lands may be authorized by law, but only when in compliance with public interest. It is the policy of the State of Florida not to object to offshore minerals exploration as long as it does not threaten marine, aquatic, and estuarine resources.

Trustees Action 124-89 of the Governor and Cabinet sitting as the head of the Department of Natural Resources and as the Board of Trustees of the Internal Improvement Trust Fund, is to prohibit seismic activities using explosives and to prohibit the drilling, exploration, or production of oil and gas resources from structures located on the sovereign waters of the State of Florida, including bays, estuaries, fresh-water lakes, rivers and streams.

No permit issued or consent given by the Governor and Cabinet for geophysical or seismic exploration on, over or beneath such waters shall be in any manner construed or deemed to constitute an implied consent by the Governor and Cabinet to the future drilling, exploration or production of oil and gas from structures located on, over or beneath such waters.

#### Activity

Florida has a long history of dredging for sand and shell for construction and beach nourishment purposes. A mineral survey of Atlantic waters is underway. Mineral surveys of Gulf waters offshore of the panhandle have been completed. Protection of Florida's coastal environment and its tourism base is a paramount consideration in assessing proposed mineral exploration plans because the State considers recreation, fishing, and boating as the primary uses of its shoreline and offshore waters. Recent applications for oil, gas, and mineral exploration permits prompted adoption of oil and gas rules in early 1987, they are again being revised in 1989.



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**Responsible Agency(s)**

State Properties Commission

**Statutes**

Georgia Code, section 50-16-43 (1981) and supplement (1987)

**Exploration**

The State may enter into a written *contract* with any person to explore, without competitive bidding, any State-owned lands for indications of mineral resources.

**Mining**

A *lease* is issued with terms, conditions, and permits for operations that the Commission determines are in the State's best interest.

The State inspects and requires from an applicant a survey or dimensional sketch of the land sought to be leased.

A *competitive sealed bidding* system is used, which requires that each bid submitted be accompanied by a *bid bond* or such other security as may be prescribed by the Commission.

State agencies are exempt from the public competitive bid if the mineral resources mined, dredged, and removed from State-owned lands are used on projects of the State agency.

The *primary term* is not to exceed 10 years.

The *minimum royalty* is 1/8 of production.

The lease provides for *delay rentals* in the sum of at least \$0.10 per net mineral acre payable on or before the first anniversary date of the lease, \$0.25 per net mineral acre payable on or before the second anniversary date of the lease, \$0.50 per net mineral acre payable on or before the third anniversary date of the lease, and at least \$1 per net mineral acre payable on or before each subsequent anniversary date during the primary term of the lease.

As far as practicable, the lessee will prevent pollution of water; destruction of fish, oysters, and marine life; and obstruction of navigation.

**Activity**

There are no current offshore mining activities.

**OCS Activity**

A State-Federal task force was formed in October 1986 to study phosphates, heavy mineral placers, and other strategic minerals offshore Georgia. A report entitled "Georgia Offshore Minerals Assessment" was completed in July 1988.



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**Responsible Agency(s)**

Board of Land and Natural Resources and Department of Land  
Economic Development

**Statutes**

Hawaii Revised Statutes, chapters 26, 171, and 182, Act 375-  
88 (1988)

**Exploration**

A *permit* is required, and no minerals may be removed beyond the quantity needed for testing and analysis. Logs and assays must be turned over to the State but are kept confidential. Information may be released if the permittee does not apply for a lease within 6 months.

The person discovering the mineral potential of the land leased receives from the operator granted lease rights and reimbursement for all expenses incurred in the exploration of the land, subject to the Board's approval.

**Mining**

A *Notice of Intent* is published and includes a description of the size and location of the land.

A *public auction* (competitive bid) is used as the vehicle for deciding who receives a mining lease, and a *public hearing* is required before a lease sale can be held.

The Board imposes a limitation on the number of leases an operator may hold and the number of acres included in such a lease. No lease can include an area larger than 4 square miles of contiguous land.

Act 375-88 prohibits the mining of sand, dead coral, coral rubble, rock, soil, or other beach or marine deposits from the shoreline area, or within 1,000 feet seaward from the shoreline, or in water depths of 30 feet or less in the territorial sea. County beach replenishment is exempted.

An extensive *environmental impact statement* (EIS) would have to be filed with possible *Coastal Zone Management* (CZM) review, depending on the nature and size of the operation.

A *term* is set at the discretion of the Board. A limitation is imposed on the number of leases an operator may hold and on the number of acres included in a lease.

The lessee bears any costs of *reclamation*.

A *bond* is required.

Applications for leases are disapproved if the State determines that the existing or reasonably foreseeable future use of the area/land would benefit the State more than the proposed mining.

### Activity

There are no current marine mining activities within State jurisdiction; however, sand is occasionally used for beach replenishment.

### OCS Activity

A draft EIS for a proposed marine mineral lease sale for cobalt-rich manganese crust deposits in the Exclusive Economic Zone adjacent to Hawaii and Johnston Island was issued in January 1987. The final EIS is expected to be completed by the State-Federal task force in early 1989.



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**Responsible Agency(s)**

Department of Natural Resources, State Mineral Board and School Boards

**Statutes**

Louisiana Statutes title 30, sections 121 to 179.14 (1984)

**Exploration**

The State performs inspections, including geophysical and geological surveys, in areas proposed for leasing.

**Mining**

The leases are offered by a *competitive sealed bidding* system.

No lease can contain more than 5,000 acres.

The *terms* and *royalty* are set by the State Mineral Board in the best interest of the State.

The *minimum royalty* is 1/8 of all minerals produced and saved on leases issued by the State Mineral Board.

The minimum royalty to be stipulated in any lease executed by or on behalf of any school board is 1/6 of all minerals produced and saved.

Where a lease provides for *delay rental*, the *annual rental* cannot be for less than 1/2 the *cash bonus*.

No *transfer* or *assignment* in relation to any lease is valid unless approved by the State Mineral Board.

The State Mineral Board, at its discretion, can extend the primary term of any lease. The primary term cannot exceed 2 years, with rentals for the extended term to be paid at the rate specified in the lease.

*Unitization* is permitted under the same conditions of the lease.

The transfer of a solid mineral lease, if approved by the State Mineral Board, can be subleased if the lease (1) is used solely for the development and production of solid minerals or (2) is one under which solid minerals have been developed or produced during the 3 years preceding the proposed transfer.

#### Activity

Some sand is occasionally used for beach replenishment, and commercial interest has been expressed in placer deposits of the eastern delta.

#### OCS Activity

An economic reconnaissance study of OCS and State water mineral resources was completed in 1988.



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Responsible Agency(s)

Maine Geological Survey

Statutes

Maine Revised Statutes Annotated title 12, chapter 201-A, subchapters III, and IV, subsections 549 to 550 (1985)

Exploration

A *Notice Of Intent* to file for a *permit* to mine a metallic mineral deposit on a site larger than 20 acres is required.

The *term* of an *exploration claim* is for 1 year, renewable for 5 years. The Director of the Survey, for good cause, may grant an extension not to exceed 2 years.

The annual *rental fee* rises from \$0.25 per acre in the first year to \$30 per acre in the seventh year.

There is a *fee* for recording, renewing, transferring, or changing the size of the claim.

An *annual report* of exploration results is required and kept confidential for the term of the permit.

An exploration claim may be converted to a lease after a *public hearing*.

Mining

The terms and conditions of a *mining lease* are set by the Director.

A lessee is required to post *bond* to reclaim a mined area and to protect it against damage to property outside the lease area.

The holder of a mining lease makes *royalty* payments annually or more frequently if so specified in the lease.

The amount of royalty payments, including minimum royalties and pre-production payments, together with the other terms and conditions of the lease, is set jointly by the Director

of the Survey and the Director of the agency having jurisdiction.

The *royalty rate* set will reasonably relate to the applicable, generally prevailing royalty rates.

Activity

There are no current marine mining activities. A copper mine extending into the sea ceased production about 10 years ago.

Coastal waters are being surveyed to the 100-meter isobath, and detailed minerals studies may begin after the survey is complete.



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Responsible Agency(s)

Department of Natural Resources and Board of Public Works

Statutes

Title 9 Wet Lands and Riparian Rights sections 9-101 to 9-503 (1987)

Exploration

Not specified

Mining

A *permit* and/or *license* is required for removal or sale of material. Compensation is made to the State in a method and amount deemed appropriate by the Board of Public Works.

A submerged lands mining permit for dredging is not required if authorized by a wetlands license issued by the Board of Public Works.

A *public hearing* may be held before a permit or license is issued. If both are required, a joint public hearing may be held.

In granting a permit, the Secretary of Natural Resources may impose conditions or limitations designed to carry out public policy set by law.

Certain *riparian rights* are not to be deprived.

The Secretary establishes, by order, the landward bounds of each wetland and the rules and regulations applicable to it.

To promote the public safety, health, and welfare, as well as wildlife and marine fisheries, the Secretary may promulgate rules and regulations governing dredging, filling, removing, or otherwise altering or polluting private wetlands.

The Secretary may require a *bond* be set as a permit requirement.

### Activity

Maryland has a long-term contract to sell sand from an area in northern Chesapeake Bay to a dredging company. Another firm dredges oyster shell from fossil oyster reefs in the Bay. Most of the shell is returned to the Bay to create desirable substrate for oyster production in areas of living reefs. The State has not taken a legal position on offshore mining, and its coastal zone management program does not address marine mining. It also has no policy on leasing submerged lands for mining. However, strip mining for coal on State lands is prohibited, and it is expected that offshore mining would face strong permitting requirements.

Sand and gravel are the only minerals of known economic interest in the offshore environment, although heavy mineral sands may be present in economic quantities.



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**Responsible Agency(s)**

Department of Environmental Quality Engineering, Division of Mineral Resources

**Statutes**

Massachusetts General Laws Annotated chapter 12, sections 54 to 56 (1981)

**Regulations**

Massachusetts Administrative Code title 310, chapter 29 (1983)

**Exploration**

After a *public hearing*, the Director of Mineral Resources adopts rules and regulations for the exploration and extraction of mineral resources.

A *license* is required for exploration of mineral resources.

The approved removal of material necessary for beach replenishment, navigational improvement projects, piers, bridges, and culverts are exempted.

Exploration for the extraction of minerals necessary for public purposes may be exempted from fees and performance bonds.

**Mining**

There is an exclusive right to *lease* mineral resources that have been discovered.

A thorough and reliable *survey* of the resources and environmental risks is required.

The Director sets charges and fees for such licenses and leases that permit a *fair profit* for the licensee and lessee.

The licensee or lessee cannot unreasonably interfere with navigation or fishing or with the conservation of natural resources.

A *performance bond* is required.

#### Activity

There are no current marine mining activities, but some beach replenishment projects have occurred. Nearly all coastal waters are protected by the ocean sanctuaries law, which prohibits the drilling or removal of any sand, gravel or other minerals, gases, or oils. The only area potentially available for mining is around Boston Harbor for sand and gravel.



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**Responsible Agency(s)**

Department of Natural Resources, Bureau of Geology Mineral  
Lease Division

**Statutes**

Mississippi Code Annotated section 29-7-1 to 29-7-17, section  
49-2-1, and section 53-5-1 (1987)

**Regulations**

Rules and Regulations Governing Leasing for Production or  
Extraction of Oil, Gas, and Other Minerals from State-Owned  
Lands (1982)

Rules and Regulations Governing Geophysical, Seismic, or  
Other Types of Exploration on State-Owned Lands (1982)

**Exploration**

A permit is required; data that must be provided to the State  
must remain confidential for 10 years.

**Mining**

A competitive bid cash/bonus system is used with a minimum  
royalty of 3/16 for minerals extracted.

The usual primary term for a lease covering tracts in the  
Mississippi Sound and Gulf of Mexico is 5 years.

If a bid is accepted, a lease form is prepared according to  
terms and specifications advertised in the *Invitation to  
Bid* and executed by the Executive Director of the Mississippi  
Department of Natural Resources.

**Activity**

There is currently a sand dredging operation for beach  
replenishment purposes in Harrison County. Historically,  
commercial shell dredging has been an economically important  
industry.

### **OCS Activity**

An economic reconnaissance study of OCS and State water mineral resources was completed in 1988.



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**Responsible Agency(s)**

Department of Resources and Economic Development

**Statutes**

New Hampshire Revised Statutes chapter 12-E (1980)

**Exploration**

Exploration leases are issued for a 5-year *term* and carry the right of possession.

A lessee can request *extensions* up to 5 years.

Lessees have the *exclusive exploration rights* and *preferential entitlement* to mining leases within the area covered by the lease.

Exploration leases and extensions require *work commitments* and the payment of *annual rentals*.

**Mining**

The lease *term* is for 20 years, a renewal extension is for 10 years. There is no *diligence* requirement. A lessee can complete mining when time and economic conditions and changes in technology exhaust the deposit before the leases are terminated.

*Production* must occur within 6 years after a mining lease is granted.

Until production has occurred for at least a year, the lessee is required to pay a monthly *rental fee* for each month that the operation has been out of production, according to the fee per acre schedule.

A rental payment is *advanced* against future royalty payments that may be due to the State because of production.

*Royalties* of 4 percent of the gross value of the crude ore that is mined and shipped are assessed upon sale of the ore, prior to beneficiation.

**Activity**

The mining statute is directed at onshore activity.



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**Responsible Agency(s)**

Tidelands Resource Council

**Statutes**

New Jersey Statutes Annotated subsection 12:3-12 and 12:3-21 to 12:3-25

**Regulations**

Rules on Coastal Resources and Development N.J.A.C. 7:7E-1.1 et seq. (1986)

**Exploration**

Not specified

**Mining**

A *application* for riparian grants, leases, and licenses, accompanied by an appropriate *filing fee*, is required.

A *license* is required to remove sand or other material from State waters.

The Tidelands Resource Council determines the duration and compensation of a lease.

Leases are *renewable*.

Riparian owners have priority for leases adjacent to their offshore areas.

**Activity**

Sand and gravel are currently being dredged at the edge of Ambrose Channel. New Jersey is a home-rule State; each municipality sets its own rules for mineral activities within its boundaries.



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**Responsible Agency(s)**

Department of Environmental Conservation (DEC), Division of Mineral Resources, upland; Office of General Services (OGS) Submerged Land and Dredged Disposal Sites

**Statutes**

Environmental Conservation Law Article 23, section 305; Mined Land Reclamation Law effective April 1, 1975, and amended 1976; and 1979 New York Public Lands Law section 22 (1986)

**Exploration**

Letters of Consent on permits are available.

**Mining Permit (DEC)**

The DEC issues *permits* for mines from which more than 1,000 tons of *minerals* are removed annually.

A *surety bond* or equivalent acceptable financial security equal to the cost of reclamation is required by the DEC before a permit is issued.

**License to Excavate and Remove Sand and Gravel or Other**

**Material by Dredging Underwater (New York State OGS)**

A *license* is issued for a 1-year period at \$50 per year.

The issuance of a license does not grant exclusive dredging rights to the licensee in the area being dredged.

Any request for extension of the license must be submitted in writing 30 days before the license expires.

No assignment or transfer of a license is permitted without written consent from the Commissioner of General Services.

A *royalty fee* is paid to the State based on production, and the fee is evaluated periodically.

The *royalty* is presently based on a fee of \$0.50 a cubic yard payable 30 days after the last day of the previous month.

A *monthly report* of material removed is required.

The licensee provides at its own expense a *surety bond*. Comprehensive *public liability* and *property damage* insurance for not less than \$500,000/\$1,000,000 is required.

*Bathymetric surveys* are required from the dredging company at the beginning of the project and within 30 days of completion of the project.

An *environmental impact statement* may be required if a proposed action can significantly affect the environment.

#### Activity

There are currently active sand and gravel dredging operations occurring in New York Harbor.



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Responsible Agency(s)

Department of Natural Resources and Community Development

Statutes

North Carolina General Statutes subsections 74-46 to 74-68 and 146-8 (1987)

Exploration

A *permit* is not required if exploration activities do not exceed 1 acre. Permits are limited to a 6 month period, but may be renewed for not more than 2 additional 90 day periods at the discretion of the Secretary of Natural Resources and Community Development.

Mining

The Department, at its discretion, is authorized to convey or lease to any person(s) the right to take, dig, and remove from the bottom of any sounds, rivers, creeks, or other waters of the State, any mineral deposits that the State can sell or lease.

Any sale, lease, or other disposition of such mineral deposits is subject to all rights of navigation and subject to all terms and conditions imposed by the State.

A *permit* is required, and a *public hearing* is conducted on any application for a permit on a area of land affected by mining.

A proposed *reclamation plan* must be submitted with the permit application.

A permit may be denied if it will adversely affect wildlife or freshwater, estuarine, or marine fisheries, or if it violates air or water quality standards.

An approved reclamation plan must be established before a permit is approved.

The *term* of a permit is for 10 years. A renewal application must be made at least 2 years before the lease ends.

The Department requires a *performance bond* to be set based upon a scheduled dollar amount per acre of affected area and set according to the commodity mined.

A *reclamation report* is due 30 days after completion or termination of mining.

#### Activity

A moratorium on mining in State waters has been in effect since 1979. Active phosphate leases are held in Durham Creek and part of Pamlico River.

#### OCS Activity

A final report entitled "The Economic Feasibility of Mining Phosphorite Deposits of the Continental Shelf Adjacent to North Carolina" was released in May 1988.



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**Responsible Agency(s)**

Department of Land Conservation and Development, Division of Lands and State Coastal Management, Fish and Wildlife Commission, and Department of Geology and Mineral Industries

**Statutes**

Senate Bill (SB630 and SB606) adopted in 1987

**Regulations**

New rules for hard minerals other than oil, gas, or sulfur deposits are being prepared.

**Exploration**

The Division of Lands and State Coastal Management can enter into *contracts for exploration* on State owned lands.

The Division can offer *exploration contracts* by giving *public notice* and *inviting public bids*.

Any person can submit a request in writing to the director of the Division to make land available for exploration.

A *public hearing* is held on the proposed contract in the county or counties contiguous to, or in which the area under consideration is located.

*Competitive bidding* for a exploration contract and bidding variables will be identified in the *Invitation to Bid*.

A *sealed* or *oral auction* can be held as prescribed by the Division which can reject any and all bids for cause.

A *processing fee* and *bonds* are required.

**Mining**

The maximum area of any exploration contract is established by the Division.

The term is for no longer than 4 years but may be renewed for an additional 4-year term if the Division determines contractor diligence.

A contractor has a *preference right* to negotiate a *development lease*.

Sixty days before the exploration contract (lease) is terminated, the contractor may request a conversion lease.

No *development lease* will be issued before December 31, 1989, and before a management plan has been adopted.

Contracts include *minimum performance standards*.

Mineral extraction is not to "substantially interfere with or detract from the use of the continental shelf for fishing, navigation, recreation, or aesthetic purposes, or from the long-term protection of renewable resources."

### Planning

Senate Bill 630, The Oregon Ocean Resources Management Act of 1987, provided for a task force to prepare the Oregon Ocean Resources Management Plan. The task force is required to prepare a plan for managing ocean resources within the 200-mile Exclusive Economic Zone off Oregon. The plan is to be completed by July 1990. Once approved, the plan will be the basis for all State agency decisions affecting ocean resources and will be the basis for State participation in Federal ocean resource decisions.

### OCS Activity

A State-Federal task force for conducting a preliminary analysis of potential economic and strategic resources in marine placer deposits was established in September 1988.



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**Responsible Agency(s)**

Coastal Resources Management Council and Department of Environmental Management

**Statutes**

Rhode Island General Laws title 46, chapters 12 and 23, and title 42, chapter 17.1-17.35 as amended (1956)

**Exploration**

Not specified

**Mining**

A *permit* from the Coastal Resources Management Council is required.

Any person, firm, or governmental agency proposing any development or operation within, above, or beneath the tidal water below the mean high-water mark, extending out to the extent of the State jurisdiction in the territorial sea, is required to demonstrate that a *proposal* will not:

- 1) conflict with any resources management plan or program;
- 2) make any area unsuitable for any uses or activities to which it is allocated by a resources management plan or program or;
- 3) damage the environment of the coastal region significantly.

The Council can approve, modify, set conditions for, or reject any proposal.

The Council can formulate policies and plans and adopt regulations necessary to implement its various management programs.

### Activity

Mining activities are prohibited within and abutting the State's tidal waters and within a 200-foot contiguous area landward of coastal features. Special exceptions may be granted to prohibited activities under certain conditions.

Potential areas for heavy minerals, sand, and gravel include Long Island, Fisheries Island, Block Island, and Rhode Island Sound. A major study plan is expected to identify user conflicts and resource access.



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Responsible Agency(s)

South Carolina Land Resources Commission

Statutes

South Carolina Code, South Carolina Mining Act title 48 chapter 19 sections 10 to 230 as amended (1985)

Regulations

Mining Act Regulations chapter 89, articles 1-40 as amended (1986)

Exploration

Exploration is required if the affected area is greater than 1 acre in size.

Mining

A *permit* is not effective until a *performance bond* or other security, determined by a scheduled amount per acre, is set.

The *term* of a permit is not to exceed 10 years.

An *operating permit* is required. The permit can be *modified* and is renewable at least 2 years before the permit expires.

An approved *reclamation plan* is required.

An *annual report* is required.

A *public hearing* is held by the Land Resources Commission, following the last required date of advertisement of any application for a permit or any substantial modification upon request by 10 persons, a governmental agency, or association with both.

Activity

The mining statute can be directed to offshore activity to the 3-mile limit. There is no mining or exploration offshore at present. There are known phosphate deposits in shallow water, but no commercial interest at present.



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Responsible Agency(s)

Petroleum and Minerals Division of the General Land Office,  
School Land Board, and Parks and Wildlife Department

Statutes

Texas Codes, Annotated Natural Resources Code, sections 1.001  
to 80, chapter 53 (1988) and Texas Parks and Wildlife Code,  
chapter 86

Regulations

Texas Administrative Code title 31, chapter 10, sections 10.1  
to 10.9 (1989)

Exploration

Exploration applies to all minerals except oil, gas, coal,  
lignite, sulfur, salt and potash, that must be explored for  
under a lease issued by the School Land Board, which is a  
governing Board chaired by the Commissioner of the General  
Land Office.

Marl, shell, sand, gravel, and mudshell is mined under permit  
from the Texas Parks and Wildlife Department.

All other minerals can be explored for under a *prospecting  
permit*, for up to 640 acres issued by the General Land  
Office.

The *term* of a permit is for 1 year, renewable for up to 4  
additional years at the discretion of the Commissioner.

A minimum annual *rent* of not less than \$0.25 per acre,  
accompanied by a filing fee, is required. Prospect permits  
may be *assigned*.

An annual report is required, and information remains  
confidential for as long as prospecting continues or the  
mining lease is held.

All or part of the explored area may be converted to a mining  
lease upon discovery of commercial deposits.

### Mining

Leasing by the School Land Board is conducted by *sealed bid*; lease sales are held twice annually by the Board.

Leases are usually awarded to the highest bidder for a *cash bonus*, which is also the first year's *rental*, on a particular tract offered for sale.

The School Land Board sets the terms and conditions for the sale and the leases.

Leasing of all other minerals is negotiated with the General Land Office, and leases are issued by the Commissioner.

The primary term is for up to 20 years or for as long as minerals are produced in paying quantities.

The annual rental payments during the primary term are not less than \$1 per acre, which is payable unless production in paying quantities is being obtained and royalty is being paid to the State.

The royalty is not less than 1/16 of the value of the minerals produced.

The proposed lease offer terms must be comparable with that of the best lease in the area and must evidence discovery of a commercial deposit.

A monthly royalty report is required.

A lease may be assigned in quantities of not less than 40 acres.

### Activity

There are no offshore exploration or mining activities at present.

### OCS Activity

An economic reconnaissance study of OCS and State water mineral resources was completed in October 1988.



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**Responsible Agency(s)**

Marine Resources Commission

**Statutes**

State Subaqueous Minerals Management Plan

**Regulations**

Virginia Code, subsection 62.1-1 to 62.1-4 (1986)

**Exploration**

Any encroachment in, on, or over State-owned submerged land requires a *permit*.

A *Letter of Permission* may be granted for totally passive exploration.

**Mining**

A *permit* is required for the removal of landfill material or sand or gravel to be sold by the permit applicant for a fee.

When a permit is issued for the removal of bottom material, a *royalty* of not less than \$0.20 per cubic yard will be specified by the Marine Resources Commission.

The Virginia Department of Highways and Transportation and all counties, cities, and towns are exempt from all fees and royalties.

An *easement* or *lease* is required for a primary or secondary purpose of obtaining oil, gas, minerals, or other substances.

The easement or lease cannot exceed 5 years and may include the right to renew an additional 5 years; royalties are negotiated and agreed upon during the competitive bid and proposal process.

*Public hearings* and *public advertising* for competitive bids on proposals for mineral leasing and extraction activities will be conducted.

The Marine Resources Commission promulgates any regulations it deems necessary to develop the Subaqueous Minerals Management Plan.

No lease may interfere with public rights to fishing, fowling, or harvesting of shellfish.

### Activity

Ongoing research reveals a good possibility of commercial titanium-bearing minerals in State and Federal waters.

A Letter of Permission was granted to a major oil company in 1985 for a compressed-air passive survey of the Chesapeake Bay and its major tributaries. At least two recent inquiries suggest that a recovery permit may be imminent, but the requirements for competitive bids may inhibit submissions involving a proprietary location.



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Responsible Agency(s)

Department of Natural Resources

Statutes

Washington Revised Code Annotated, subsection 79.01.616 to 79.01.651 (1985)

Regulations

Washington Administrative Code chapter 332-16 Mineral Prospecting Leases and Mining Contracts (1988)

Exploration

The Department of Natural Resources may issue *permits, prospecting leases, and contracts for mining* of valuable minerals and specified minerals, except rock, gravel, sand, silt, coal, or hydrocarbons.

Application submission is required for a *prospecting lease*.

The application must include a plan of development, which describes the development, operation, and reclamation of the property, on evidence that the prospecting work requirements of the lease have been met.

The *annual rental* for years 1 through 3 of a mineral prospecting lease is \$2 per acre or \$100, whichever is greater. The annual rental for years 4 through 7 is \$3 per acre or \$120, whichever is greater. The Department may require that more than 1 year's annual rental be paid in advance before the lease is issued.

The annual prospecting *work requirement* for a mineral prospecting lease is \$3 per acre.

The *tracts* are not to exceed 640 acres.

Any lessee not converting to a mining contract is not entitled to a new prospecting lease for 1 year from the expiration date of the prior lease. The land is then open to application by any other person.

An application to convert a prospecting lease to a mining contract must be submitted, with an application fee, 180 days before the prospecting lease expires.

### Mining

The Department may offer *mining contracts* at a *public auction*.

The *primary term* for a mining contract is 20 years. A renewal application is required for a mining contract.

The annual advance *minimum royalty* for years 1 through 5 of a mining contract is \$5 per acre or \$250, whichever is greater; for years 6 through 10, \$10 per acre or \$500, whichever is greater; for years 11 through 20, \$20 per acre or \$1,000, whichever is greater.

The rate incorporated into a mining contract issued upon conversion from a prospecting lease is the rate in effect on the date the prospecting lease was issued.

The *production royalty rate* for mining contracts is 5 percent of the gross receipt.

The annual *development work* requirement for a mining contract is \$5 per acre.

All annual rental payments and annual advance minimum royalty payments must be made in advance, and lack of notice of payment due does not relieve the lessee of the obligation to make payments when due.

The lessee may make payment to the Department in lieu of development work.

Contracting or subcontracting is permitted; *consolidation* may be permitted in the best interest of State.

A *surety bond* guaranteeing terms may be required.

At the time of termination of any mineral prospecting lease, permit, or mining contract, the premises must be *reclaimed* through plans approved by the Department.

The Department may adopt rules necessary for carrying out mineral leasing, contracting, and permitting under the above statutes and may amend or rescind any rules adopted.

### Activity

Some prospecting has occurred in black sands at the mouth of the Columbia River for the period 1960-1984. During 1986, a prospecting lease was issued to explore for heavy minerals in an offshore area.

As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interest of all our people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. Administration.



# END

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